

### The criminology of corruption

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Veröffentlichungsversion / Published Version

Sammelwerksbeitrag / collection article

Zur Verfügung gestellt in Kooperation mit / provided in cooperation with:

Verlag Barbara Budrich

#### Empfohlene Zitierung / Suggested Citation:

Huisman, W., & Vande Walle, G. (2010). The criminology of corruption. In G. d. Graaf, P. v. Maravic, & P. Wagenaar (Eds.), *The good cause : theoretical perspectives on corruption* (pp. 115-145). Opladen: B. Budrich. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-368885>

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# Chapter 8:

## The Criminology of Corruption

*Wim Huisman and Gudrun Vande Walle*

### 1. Introduction

Corruption is a form of crime. Most people, including scholars, would agree on that. Criminology is a scientific discipline that has crime as its object of study. Surprisingly, however, corruption has rarely been the focus of criminological research and mostly in the context of broader concepts of crime, such as organized crime. This is rather strange because other concepts are perfectly suitable for a criminological analysis of corruption. As criminologists, we are convinced of the added value of a criminological perspective on corruption. Taking criminology as the reference point we will address two issues in this chapter.

First, several criminological concepts, developed for the study of distinct forms of crime, will be discussed. These concepts enable a better understanding of corruption as a crime phenomenon. Concepts related to corruption are: organized crime, occupational crime, corporate crime, state crime, and the more recent derivatives such as state-corporate crime. We end this analysis with the concept of 'victimization' and the added value of victimology for a better understanding of the crime phenomenon.

One question that connects the different concepts is the question of definition. Mainstream criminology generally works within the context of the criminal law definition. For corruption this usually means the criminalization of bribing. Bribing has an active side of offering bribes by the 'corruptor' and a passive side of accepting bribes by the 'corruptee'. From this narrow definition, an important question emerges when we reflect upon the meaning behind the criminalization of corruption, being the disapproval of the abuse of power for personal gain: 'must we use the law to draw the line?' (Nelken 1994). Should the criminological study of corruption be limited to those forms of corrupt behaviour criminalized by law – mostly offering and accepting bribes? Or should we extend the scope of research to legal behaviour that leads to the same sort of abuse of power?

In the second part of this contribution, several theories on the aetiology of crime will be explored to discover their explanatory value for a better understanding of corrupt behaviour. The selection of theories is based on the assumption that corruption is mostly committed by agents operating in the

context of organizations. A multi-level approach is chosen, exploring possible causal factors on the macro-level of globalisation and nation states, the meso-level of organizations and the micro-level of interactions of individuals.

We end this contribution by reflecting upon the methodology that has been used to study corruption as a crime phenomenon. Empirical research in criminology is limited and often based on second sources. Some remarkable research initiatives ought to stimulate further empirical research.

## 2. Fertile ground for corruption research

The most important concepts that have been host to corruption studies are organized crime, occupational crime and organisational crime. Organisational crime is further divided into corporate crime and state crime. Even if the latter domains retain their authenticity, researchers have crossed the border of their own domain and are now searching for connections and networks between organized, corporate, state and occupational crime. This border-crossing has been introduced by, among others, the criminologists Kramer and Michalowski, with the concepts state-corporate and state-organized crime (2006). Today more researchers refer to the blurring of boundaries between legal and illegal organisation and the unreliable employee. This approach starts from the perspective of the perpetrator. We end this chapter with a reflection on the contribution of victimology to the understanding of corruption victimisation.

### 2.1 Corruption and organized crime

Without any doubt organized crime has been the most important domain in criminology for research into corruption. This is due to international initiatives of criminal policy at the end of the 90s in the fight against organized crime. Organized crime was perceived as a crime phenomenon that was increasingly threatening the legal economy but it appeared to be impossible for the police to capture the illegal networks behind organized crime. Money laundering and corruption were considered as mechanisms used by criminal organisations to facilitate or to continue their lucrative illegal activities without being detected. Regarding corruption, differences could be made between corruption on the political level, on the enforcement level or on the level of administration. These moments of contact between the underworld and the upperworld gave a clue to the police for further detection of the criminal network. This idea of the strong link between organized crime and corruption of the upperworld was later affirmed by the Dutch Parliamentary Inquiry Committee concerning Investigation Methods, the *Van Traa* Commission. The commission said: there is organized crime when – among other require-

ments – the group is capable of covering up their crimes in a relatively effective way, particularly by demonstrating their willingness to use physical violence or to rule out persons by means of corruption (Fijnaut et al. 1998).

What could be called a ‘moral panic’ at the end of the 90s concerning organized drug trafficking and human trafficking has also had an impact on research in criminology. In the 1960s and 1970s, criminologists created mafia-like images of criminal organisations: organized crime was an underworld totally separated from the legal world. *Beare* refers to the ‘alien conspiracy notion’ that separated organized crime from normal society and therefore distanced organized crime from corruption (Beare 1997a: 66). The urgent demand for more profound research led to a more realistic picture on organized crime in criminology (see, e.g., Fijnaut 1998; Kleemans 2008; Rider 1997; Ruggiero 1996). Empirically based research such as the *Van Traa* Commission succeeded in de-mystifying the mafia-like image of organized crime in the Netherlands (Fijnaut et al. 1998). Independent academic research is now deconstructing organized crime in all its complexities, with particular attention for the moments of interface between the legal and the illegal world (Fijnaut/Paoli 2004; Van Duyn/Jager/Von Lampe/Newell 2004). Discussing organized crime is not the same as discussing one concept anymore. Among other reasons, the variety of organized crime will depend on the ability to garner support and assistance via corruption. The greater the ability to corrupt the greater the ability to remain invisible (Beare 1997a: 68). *Fijnaut et al.* (1998) see three further relationships of crime with the upperworld: parasitical, symbiotic and implantation. In a parasitical relationship the contacts with the legal economy are rather limited and only in the interest of the underworld. If an opportunity appears, the criminal organisation will try to corrupt. A symbiotic relationship is more complex, based on the mutual interests of the criminal organisation and the upperworld. Corruption becomes more important and gives mutual benefit. However, since the relation between both worlds is close, corruption is more complex and difficult to prove. The last kind of relationship type is implantation. The criminal organisation is partly absorbed in the upperworld and the criminal activities are totally mixed up with legal business. Corruption changes in a situation of permanent pressure.

The study of organized crime has stimulated attention for corrupt practices: even if there is no consensus about the necessity of corruption for the continuity of illegal activities, it is obvious that at the very least corruption can be a facilitator. On a world scale, *Buscaglia and Van Dijk* found a strong correlation between the perceived level of organized crime in countries and the level of perceived corruption in these countries as reported by Transparency International (Buscaglia/Van Dijk 2003). On the other hand criminologists must be aware that the connection with illegal organisations is only one specific dimension. Other dimensions of corruption, committed in the sphere of the legal economy, are possibly less obvious but may, give to be more reason for the study of corruption as an independent crime phenomenon.

## 2.2 Corruption and white collar crime

A second criminological concept, providing the opportunity for independent corruption research, is white collar crime. *Sutherland*, who introduced the concept during the congress of the American Sociological Society in 1939, defined white collar crime as 'crime committed by a person of respectability or high social status in the course of his occupation' (Sutherland 1961: 9). His definition was not very precise but his empirical research made clear that he was referring to criminal behaviour committed by members of the upper socio-economic class during their occupation, independent of the fact that an individual or the company is the beneficiary (Sutherland 1961: 9-10).

Already from that very beginning of what is now called *organisational criminology* the definition of white collar crime was a main topic of debate. The discussion questioned whether it was the role of criminal law to define white collar crime. Sutherland was convinced of the fact that general criminal law did not cover all forms of white collar crime because most of the harmful activities conducted by white collar criminals are dealt with outside the criminal court by civil litigation or disciplinary rules.

'Given that 'upper class' criminals often operate undetected, that if detected they may not be prosecuted, and that if prosecuted they may not be convicted the amount of criminally convicted persons are far from the total population of white collar criminals.' (Slapper/Tombs 1999: 3).

This far reaching statement clashed with the opinion of some lawyers, e.g. *Tappan*, who saw in the extension of the definition of crime outside the criminal law an attack on the principle of innocent until proven guilty. The debate about the delineation of white collar crime is still going on today. The republican criminologist *John Braithwaite*, for example, returned to Sutherland's definition in saying that the criminal code is at the centre of delineation but most organisational crime is redefined as a private law conflict (Braithwaite 1984: 6). Some other criminologists rejected the criminal law definition completely because it is an institution enforced by the state and dominated by the powerful. These criminologists put forward a human rights definition with social harm as central point of delineation (Schwendinger/Schwendinger 2001: 84-85). This definition-debate which had faded through the years pops up again when talking about corruption. The Global Integrity Report states that the majority of countries have anti-corruption law: even those countries perceived as vulnerable for corruption. But when we study the *implementation* of the corruption law the results are less optimistic (Global Integrity Index 2008). Even in the Netherlands and Belgium the amount of corrupt practices which end up in criminal sentences are limited (Huberts/Nelen 2005: 50; Database Central Registration of Punishment, Belgium)<sup>1</sup> As an alternative to incarceration, the

1 Information on the conviction rate of corruption in Belgium was provided by the Federal Department of Justice.

case ends with a disciplinary sanction or a dismissal for lack of evidence (Slapper/Tombs 1999: 87). The record is even worse for private corruption or corruption committed between two private individuals. This crime phenomenon that is considered to have the highest incidence of all corruption phenomena is often settled in the private sphere or penalised by market mechanisms. For the years 2004 and 2005 not one case reached a Belgian court (De Bie 2009; see also: Database Central Registration of Punishment, Belgium).

Despite the immense impact of Sutherlands work on criminology, the content of white collar crime refused to become clear. *Sutherland* failed to distinguish crime committed by an employee in favour of his organisation with crime committed by an employee in his own interest and against the interests of the organisation. After *Sutherland*, the concept of white collar crime fell into disuse and different sub domains were developed: the domain of 'offenses committed by individuals for themselves in the course of their occupations and the offenses of employees against their employers' (Clinard/Quinney 1973: 188) or alternatively, crime committed by a legal organisation or a member of that organisation in the course of his occupation in favour of the organisation. The legal organisation that commits crime can be a private company (corporate crime) or a public organisation (state crime).

### 2.2.1 Corruption and occupational crime

The concept of occupational crime is relevant when analysing passive corruption. It means that an employee, in a public or private organisation, has abused a position of power or trust for private gain and against the interests of the employer. *Clinard and Quinney* introduced occupational crime in 'Criminal behaviour systems: a typology' (1973). *Friedrichs* thought that the definition of *Clinard and Quinney* made a scientific debate impossible because the concept was still too broad. He further diversified the concept into three categories: 'occupational crime' referring to illegal and unethical activities committed for individual financial gain – or to avoid financial loss – in the context of a legitimate occupation; 'occupational deviance' as the deviation from occupational norms (e.g. drinking on the job; sexual harassment) and 'workplace crime' for conventional forms of crime committed in the workplace (e.g. rape; assault) (Friedrichs 2002). Other researchers who gave continuity to the work of *Clinard and Quinney* are, amongst others, *Blount* (2003), *G. Green* (1990) and *Mars* (2006).

When talking about corruption as a kind of occupational crime some remarks are necessary. Firstly, concerning passive corruption, it is certainly the case that the offender has a personal responsibility but the organisational and social context cannot be denied. Frequently, it will be a hybrid mixture of on the one hand the personal characteristics of the corruptee and the impact of organisational aspects such as organisational structure, organisational culture, and style of leadership (Mars 2006; Tillman 2009); and on the other hand

elements external to the organisation such as globalisation, the legal framework and law enforcement (Box 1983: 34-79; Mars 2006; Tillman 2009). *Punch* illustrated the complexity of occupational crime in his research on police corruption. He rejects the bad apple metaphor and focuses more on bad orchards, an institutional context where the organisation, the kind of work, and the culture play a key role. In *Punch's* work police corruption is viewed as both individual and institutional failure. Even if corruption, from a certain perspective, possibly fits the definition of occupational crime, caution is called for in establishing a causal link (*Punch* 2000: 314-315; *Punch* 2009: 18). *Gray* expressed the same concern for health and safety problems in companies: while workers are often victims of health and safety problems they are often too easily portrayed as offenders (*Gray* 2006). Even if the initiative emanates from the civil servant, the organisational context often creates the opportunities to commit corruption. The organizational context as a causal factor in explaining corruption will be elaborated upon in chapter 3.

A second remark concerning corruption as a form of occupational crime is that occupational crime may not necessarily be against the interests of the employer. From the point of view of the corruptee in the case of public corruption, the organisation can often profit from individual actions, especially if the company has already participated in a long process of blurring moral standards. In case of private corruption the interests of the organisation and the interests of the corruptee correspond. One example is the case of the Belgian soccer club SK Lierse and the Chinese gambler Ye. The bribe that was paid to some players of SK Lierse guaranteed the continuation of the club, was a benefit for some players and a guarantee of profit for the gambler.<sup>2</sup> In general, soccer seems prone to corruption (*Hill* 2009). In practice it is not easy to make a clear distinction between occupational and corporate crime and a continuum of activities which favours the organisation more than the employee or *vice versa* although the latter occurrence seems to be more representative.

Occupational crime as a subject of research has been barely studied in criminology. It could be argued that a previously pro Marxist approach in organisational crime deflected attention away from the deviant behaviour of employees (*Cools* 2009: 192). Another reason could be that organisations try to hide deviant behaviour of employees in order to avoid negative publicity or, in the case of a public organisation, to keep their legitimacy.

### 2.2.2 Corruption and organisational crime

The other part of white collar crime is organisational crime or crime committed by an organisation or a member of an organisation in the interest of

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2 Lierse SK 'naïef' in omkooptschandaal (Lierse SK 'naive' in corruption scandal), *Trouw* 19 April 2006.

the organisation. A decade ago every text concerning white collar crime contained the statement that there is no criminological research on white collar crime (cf. Pearce/Tombs 1998: ix; Slapper/Tombs 1999: 9). Today, the domain of organisational crime represents a significant part of criminological research as a whole and phenomena such as environmental crime, food safety scandals or financial crime no longer pass unnoticed by organisational criminologists. This is not the same for corruption. Few organisational criminologists have studied the act of corruption as an aim in itself.<sup>3</sup> This can be explained in the following ways:

First of all, corruption has always been strongly related to organized crime and studied as a facilitator of organized crime. It is only recently that criminologists have given attention to the seriousness of corruption as a crime phenomenon of the underworld.

Secondly, and related to the first argument there was no pressure from 'outside' to set up corruption research. For a long time politics was indifferent to the deviant activities of legal organisations and it was certainly not supported by the private sector who considered the research of organisational crime as a threat to the free market. It is only during the last two decades that the attention for public integrity and business ethics has started to grow – also on the political level. This differs from organized crime which has always been considered as a threat for the legal economy and has always been taken seriously by the private sector as well as government.

Thirdly, corruption is an ambiguous concept. We have already mentioned that the debate about the demarcation of organisational crime is a constant theme. This is certainly the case for corruption. When leaving the safe legal framework of bribery and enlarging the definition of corruption to the 'abuse of power for private gain' a new world of insecurity and vagueness is revealed. Perception studies establish a wide range of perceptions on corruption depending upon the social position of the perceiver and the kind of corruption committed. *Heidenheimer*, for example, categorizes corruption according to social acceptance in white corruption, grey corruption and black corruption (Heidenheimer 1989). The lack of clear definition of corruption may restrain criminologists from studying corruption especially since criminologists have always had difficulties leaving the criminal law borders behind.

Finally, the lack of 'visible' victims could be a reason for the lack of interest into corruption as a form of organisational crime. Organisational criminologists have been traditionally sensitive to scandals and disasters with huge victimisation rates and serious financial, physical, and emotional impact (Van de Bunt/Huisman 2007). Even if corruption produces its own human tragedy:

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3 In 1990 Clinard published 'Corporate corruption. The abuse of power'. However the title was misleading since the book is an analysis of unethical and illegal behaviour committed by the Fortune 500.



unemployment, lack of health care, school education or famine; it is a slumbering problem that is too easily accepted as part of a culture or tradition.

It is possibly the case that there are more reasons to be found for the neglect of corruption in organisational criminology. Nevertheless, the two next study domains in criminology: corporate crime and state crime, will prove to be valuable for the study of corruption.

### 2.2.2.1 *Corporate crime*

When the criminal law definition of corruption is analysed, it has two main players: the active corruptor and the passive corruptee. Little attention is given to the role of corruptor in the media and/or research. We have to agree with *Levi* when he says that crime committed by social outsiders is accepted far less gently than crime committed by the respectable company (*Levi* 2009: 51). Also in criminology, corruption committed by private companies or the active corruption side is a neglected crime phenomenon.

The debate on the definition of organisational crime takes on an extra difficult dimension the moment private companies become the central objects of research. *Sutherland* had already illustrated that an organisation is able to commit white collar crime without being perceived as criminal or without being detected or prosecuted. One of the explanations for their exclusion from the definition of crime is the social network of white collar people. The social network was, according to *Sutherland*, referable to the *cultural homogeneity* of people working for the government and in business: both being in the upper strata of the American Society, family and friendship, relations, and the mechanism of the revolving door. 'Many persons in government were previously connected with business firms as executives, attorneys, directors, or in other capacities' (1961: 248) Thus the initial cultural homogeneity, close personal relationships, and power relationships protect businessmen and women against critical definitions by government. This perception of the relationship between companies and the political level is something which fed the idea that companies always escape formal condemnation and that gave an impulse to the definition debate. This debate is still currently of high relevance in cases of corruption. While some activities of 'abuse of power for private gain' are considered as corrupt, other activities with the same risk of harm are considered socially acceptable; for instance networking and lobbying, make the regulator vulnerable for what is called regulatory capture.<sup>4</sup> Another mechanism that endangers the independent position of the regulator is 'a revolving door'. A revolving door refers to the mechanism of personnel shifting between affiliations in politics or regulatory agencies and executive positions in companies subjected to regulation. In fact people who left their

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4 In case of regulatory capture the regulating agencies act in favour of those who are regulated and not for the public interest. The reason for capture is the dominant position of the regulated in the regulation process. This dominant position is the result of a direct or indirect mechanism of influencing or even manipulation. (See also: Vande Walle 2010).

job come back in with other interests. The previous network and contacts will help to protect the interests of the regulated.

In comparing lobbying and corruption *Campos and Giovanni* have suggested that legal mechanisms such as lobbying are preferred in rich countries while companies in poor countries have to rely on corruption (Campos/Giovanni 2006). The promotion of medicines and the subtle interaction between pharmaceutical companies and physicians is a good illustration of the distinction between what is legal and what amounts to corruption. While general practitioners are seduced by pharmaceutical companies offering to equip their medical cabinets or facilitate participation in a conference with a luxurious destination they are also encouraged to prescribe new medical products of that specific company to their patients (Braithwaite 1984; Vande Walle 2005: 232-240). Despite the recognition of overmedication as a new western disease, such mechanisms continue to be tolerated.

In the near future more profound criminological research into the corruptive practices of private companies and the acceptability of the relationship between the private and political level seems to be essential. The initial impetus for the latter has already been given with the introduction of the concept known as state-corporate crime; a concept that emphasizes the importance of both the private company and the state, emerging from the compilation of the study of corporate crime with the study of state crime.

#### 2.2.2.2 *State crime*

State crime is a relatively new study domain in criminology. Illegal or deviant acts perpetrated by or with the complicity of state agencies were until recently mostly studied international political sciences and anthropology (P. Green/Ward 2004: 431). The recent criminological attention has some specifications and challenges for the future. However, with the introduction of the International Criminal Court, state crime has gained academic attention, also in criminology.

In line with the competences of the ICC the attention has gone particularly to genocide, war crimes and crimes against humanity (P. Green/Ward 2004; Huisman 2009; Rothe/Ross 2009; Smeulders/Haveman 2008). With the exception of *P. Green and Ward* corruption is seldom considered as a state crime. We think it is a challenge for criminologists to further explore the relation between war crimes, genocide and crimes against humanity on the one hand and corruption on the other, as will also be discussed in section 3 (Bantekas 2006).

Relating corruption to human rights abuses brings the risk of the 'overexposure' of corruption in countries in transition and third world countries and makes people think about corruption in terms of 'the other' and 'the self'. *Criminology of the other* is a type of criminology which speaks of poor countries and countries in transition 'as if they are the gangsters, the rogue states, the failed states and we can present ourselves as police' (P. Green/

Ward 2004). On the other hand *criminology of the self* considers state crime as a 'natural outcome of the economic, military and geopolitical rationalities of advanced capitalist states' (P. Green/Ward 2004). This could be a fallacy when studying corruption and when overstressing the culture of a country or population. Criminology of the other is possibly an idea which is fostered by instruments such as Transparency International or the Global Integrity index which seems to isolate the responsibility for corruption to the government of the corrupt country while in a global economy more actors are involved. Although Transparency International has attempted to restore the balance by focusing its 2009 report on corruption into the private sector. In recent years, companies have gained access to the regulation process and other legal mechanisms of regulatory capturing have made corruption, in the strict juridical sense, less important. This evolution into co-regulation risks turning the attention of the criminologists away from the responsibility of western countries to poor countries.

To avoid the spurious dichotomy of the self and the other and of the relation between private companies and the state, a new approach has now become essential.

### 2.2.2.3 *State-corporate crime*

A last biotope for the study of corruption is state-corporate crime. State-corporate crime provides a framework for studying forms of organisational deviance created or facilitated by the intersection of political and economic institutions (Kramer/Michalowski 2006: 18). In the first decades of the study of corporate crime, criminologists were strongly focussed on the private legal organisation as the perpetrator and the study of the role of public authorities was somewhat limited (Kramer/Michalowski/Kauzlarich 2002: 270). In theories explaining corporate crime, state responsibility was reduced to a lack of state regulation or a lack of enforcement (Box 1983: 64) or, going back to *Sutherland*, was conceived as belonging to the same social class (1961: 248). However the statement 'no corporate crime without the state' holds water. *Kramer, Kauzlarich and Michalowski* reintroduced the state as participant in the commission of corporate crime, either as facilitator or as initiator. The introduction of the notion *state* came from a feeling of dissatisfaction with the underestimated responsibility of the state in committing corporate and organized crime. Their critique was based on the proposition of *Quinney* that 'the definition and control of some behaviour as criminal and the selection of others as acceptable are the consequences of socially embedded processes of naming, not qualities in resident in the behaviour so named' (Kramer et al. 2002: 265-266). With the introduction of state-corporate crime; *Kramer* and his colleagues reintroduced the state, not in the baseline as an element of explanation, but as a responsible actor. Certain behaviour committed at the intersection of corporate and state goals are not as seen as criminal; either because they are not named as such by law, or are not treated as such by those who administer and enforce the law, re-

ardless of the social harm this type of behaviour causes (Kramer et al. 2002). State-organized crime is organized crime that is created or facilitated at the political level (Chambliss 1989). P. Green (2005) brought the three domains together in his study of the construction industry in Turkey and the disasters after the earth quakes. This same mechanism of the blurring of boundaries between organized, corporate, and state crime is remarkable in the illegal trade in natural resources and the relation of this illegal trade with arms trafficking (Boekhout van Solinge 2008; Reno 2009). A striking example is the scandal of 'Angola-gate' in which French officials have recently been convicted of taking bribes and doing business with shady arms dealers to safeguard French oil interests in Angola and in which former executives of the French oil company Elf have been convicted for offering bribes to both parties in the civil war in this country (Frynas/Wood 2001).

*Kramer and Michalowski* further differentiated the responsibility of the state between *state-initiated* and *state-facilitated* (Kramer et al 2002: 271) notions that fit with what are called acts of commission and acts of omission. State-initiated activities are socially injurious activities initiated by a governmental actor. State-facilitated activities occur when government regulatory institutions fail to restrain illegal acts, 'because of a collusive relationship or because they adhere to shared goals whose attainment would be hampered by aggressive regulation' (Kramer et al 2002: 271-272). The corrupt activities of a civil servant in a tolerant environment without leadership or implementation of regulation could be considered as state-facilitated.<sup>5</sup>

State-corporate crime is a rather inflexible concept but it sets some reflections in motion. Firstly, it has contributed to a more complete view of the network of responsible actors involved in corporate crime. Not only is the private company important but also the state, as an institution of rule making and of enforcement. Secondly, the activities of the state itself are questioned more thoroughly. Finally, the concept of state-corporate crime highlights the debate about the criminal law definition of corruption: is the legal definition sufficient to encompass socially injurious relations between companies? This is a debate which pops up from time to time in criminology: reminiscent of the radical criminology of the Schwendingers who pleaded for a human rights definition of crime because the legalistic definitions cannot be justified

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5 Even if these different notions of responsibility hold water, their application in practice can be a rather complex exercise and nuances can be subtle. Take for example the weapons exported from the Belgian weapon factory *Fabrique Nationale de Herstal* or in short *FN*. Since 1997 the Walloon Region is the 100% owner of the Herstal Group which the FN factory belongs to. They provide employment for 3000 people in Belgium, Japan, Portugal and the US. In 2002 FN was front page news because the parliament of the Walloon region gave permission for the export of more than 5000 machine guns to Nepal whilst weapons export to regions in conflict is internationally forbidden. What was the Walloon region doing in this case: facilitating to protect a national traditional economy and employment or, initiating because they were 100% owners of the company in question? In other words – how do we categorize a case where the state is the company and the regulator at the same time?

as long as they make the activity of criminologists subservient to the state (Schwendinger/Schwendinger 1975: 138). In addition, *P. Green and Ward* specified the aspect of socially injurious by referring to human rights violations (P. Green/Ward 2004: 28). *Barak* moreover, says that in a sense, injurious activities of the state are more threatening than harmful activities of the private sector because the state makes the rules in the name of common interest or national welfare (Barak 1991: 5). Even if these contributions are radical criminological points of view which stand far from practical applicability, they keep criminologists alive to the relativity of the penal code and potential injurious effects of legal activities (Passas/Goodwin 2004).

### 2.3 Corruption in victimology

Corruption can have a wide variety of victims: the state, competing firms, the community or even entire societies. Moreover, those under direct or indirect duress to commit corruption offer a broad base for further criminological analysis. Surprisingly, however, victims are seldom the topic of concern in corruption studies. This is a general fallacy of organisational criminology. Corporate crime has often been represented as victimless crime for many reasons (Croall 2001: 8-9; Wells 1994: 26). *Ross* said it was due to the character of the perpetrator, *the criminaloid*, who consciously avoids victimising in his direct neighbourhood (Ross 1907). Others blame it on the private character of organisational crime: committed in offices or by using safe telecommunication. Also, the time-space distance between the offender and the victim plays a role (Vande Walle 2005: 39-44) Going back to the case of the export of counterfeit medicines to Nigeria, between the moment of bribing the customs officer and the consumption of the pseudo-medication a considerable period of weeks or months passed. Finding the causal link between the injurious effects and the transaction between company and customs officer was almost impossible. The distance between the offender and the victim reinforces the invisibility of victimisation and the unconsciousness of the injured of being a victim. Furthermore, especially in the case of corruption, the indirect effects on employment, health care and education, avoids public disapproval. Even if people were conscious of their victimisation, their social position makes it almost impossible to react with impact. The Global Corruption Barometer of Transparency International (2008) shows that low income households have to pay most bribes. This finding is in flat contradiction to the democratic character often attributed to corporate crime. Everybody can be a victim but the weakest, the poor, the uninformed, are the first victims.

The characteristics of corruption make the victim into what *Sutherland* called a *weak antagonist*, or a victim who resigns because of his low social status or lack of knowledge (Sutherland 1949: 230). It is one of the tasks of victimology to make victims more visible primarily, in their own interest but

also to get a better understanding of the mechanisms which operate to make people apparently resigned to their fate.

### 3. The aetiology of corruption

The previous section has shown that criminologists would place corruption in the scope of types of crime which take place in an organisational context. It is therefore plausible to explore whether theories that have been developed to understand the causes of these forms of crime, are also applicable to the aetiology of corruption. In addition, the distinction between organisational and occupational crime is parallel to the active and passive sides of corruption. In a corporate crime context, it can be a corporate agent who is offering bribes in order to achieve a corporate aim, for instance acquiring a contract or obtaining a governmental permit. On the passive side, it will be a member of a private or public organization taking the bribe for his or her own benefit, in exchange for a service or omission that will probably not be for the benefit of the organization.

This distinction can also be relevant for the explanation of corruption. Theories on the causes of organized and white-collar crime are often elaborations of general theories of crime. These theories focus on three categories of explanatory variables: *motivation, opportunity and the operationality of social control*. According to Coleman (1987:409) motives are 'a set of symbolic constructions defining certain kinds of goals and activities as appropriate and desirable and others as lacking those qualities'. Opportunities entail 'a potential course of action, made possible by a particular set of social conditions, which has been symbolically incorporated into an actor's repertoire of behavioural possibilities'. According to Shover and Bryant (1993: 144) opportunities for corporate crime are 'objectively given situations or conditions encountered by corporate personnel that offer attractive potential for enriching corporate coffers or furthering other corporate objectives by criminal means'. The operationality of control is the opposite of opportunity: informal and formal control provided by guardians serve as a restraint on the commission of crime (Benson/Simpson 2009). While a motivation is a subjective construction of psychological desires, and opportunity and control are rooted in objective social conditions, these variables are inseparably interwoven in particular settings. Motivations evolve in response to a particular set of structural opportunities and have little meaning in another context. Equally, an opportunity requires a symbolic construction making that particular behavioural option psychologically available to individual actors. Finally, a lack of control contributes to the opportunities to commit crime. In other words, acting in an environment in which business opportunities present themselves after showing willingness to take care of the personal needs of authority figures might influence the motivation to do so.

This example shows that these explanatory variables can be found on several aggregate levels: the level of the individual offender and his or her social interactions, the organizational level of structural and cultural characteristics of organizations and the institutional level of political economy and business regulation (Kramer/Michalowski 2006; Shover/Bryant 1993). *Vaughan* (2002) has emphasized the importance of understanding the interconnections of the micro-, meso- and macro-levels and the relationships between the environment, the organizational setting and the behaviour of individuals within for the explanation of misconduct committed from within an organizational context.

### 3.1 The institutional level

On the macro-level, many criminologists attribute a criminogenic effect to the 'culture of competition', a complex of values and beliefs that is particularly strong in social systems based on industrial capitalism (Coleman 1995:363). In this worldview, the foundations of which can be traced back to the 17<sup>th</sup> century (Coleman 1987: 416), great importance is given to achieving wealth and success, while people are seen as autonomous individuals with powers of reason and free choice and therefore responsible for their own condition. In this way, the culture of competition defines the competitive struggle for personal gain as positive, rather than negative or selfish. Competition produces maximum economic value for society as a whole. This demand for success and the pursuit of wealth is seen by some criminologists as criminogenic in itself (Punch 1996). Others point to the fact that it is rather the flipside that brings a risk: when success is threatened and illegitimate means are perceived as the only remaining method of attaining wealth (Passas 1990). According to *Coleman*, this 'fear of falling' is the inevitable correlate of the demand for success, which together provides a set of powerful symbolic structures central to the motivation of economic behaviour (Coleman 1995: 417). Furthermore, the principle of calculated self-interest of market exchange collides with principles of open sharing and reciprocal exchange found in societies that are not deeply influenced by industrial capitalism. It is this collision of capitalist self-interest and traditional reciprocal exchange which is often related to the observed 'corruption eruption' attributed to the internationalization of economic markets (Williams/Beare 1999). The question at hand is whether globalisation of business has increased the prevalence of corruption or has globalisation increased the visibility and sensibility of corruption.

### 3.1.1 Globalisation and anomie

Most authors in the field of criminology regard globalisation as a criminogenic development. According to *Passas* (1998), globalisation multiplies, intensifies and activates 'criminogenic asymmetries' that lie at the root of corporate crime. *Passas* defines these asymmetries as 'structural disjunctions, mismatches and inequalities in the spheres of politics, culture, the economy and the law'. These are criminogenic in that they offer illegal opportunities, create motives to use these opportunities and make it possible for offenders to get away with it. *Passas* sees corruption as a conservative force that maintains or increases asymmetries (*Passas* 1998: 26). It hampers social, economic and political progress and it facilitates the illegal markets which are the result of asymmetries. Corruption, on the other hand, is also a consequence of asymmetries (*Passas* 1998: 27). 'Companies operating in countries with slow and inefficient administration will be tempted to pay 'speed money' in order to get the job done.' Economic asymmetries might foster attitudes justifying corruption as functional to local economies and as way of redistributing wealth. Corrupt practices might become seen as patriotic acts, for instance in skimming off funds of international organisations intended for economic development.

Criminogenic asymmetries can also be found in the field of the regulation of corruption. The nature and the firmness of the regulation of corruption may differ from one country to another, ranging from total absence of binding standards, to an emphasis on self regulation and criminalization. Although most countries that abide by the Rule of Law have criminalized corruption and 37 – mostly developed – countries have ratified the 1999 OECD Anti-Bribery Convention, bribes paid in international business are still tax-deductable in several countries or alternatively, there is a lack of legal enforcement, creating ambiguity around the illegitimacy of corruption (*Transparency International* 2008). Asymmetries in the regulation of corruption might not only provide *de jure* opportunities but they can also contribute to the moral ambiguity of offering and accepting bribes. Ambiguity surrounding regulatory requirements and therefore applicable norms and boundaries of acceptable behaviour is often seen as a typical feature of white-collar crime (*Nelken* 1994; *Zimring/Johnson* 2005).

'As in the study of white-collar crime, to study corruption is an attempt to follow a moving target: the way that certain transactions move in and out of acceptable behavior as the boundaries of what is legitimate are softened, reaffirmed or redrawn; this is the classic stuff of labeling theory' (*Levi/Nelken*, 1996).

Situations in which there is a high degree in uncertainty or confusion as to what is and what is not acceptable, due to radical changes in society, were labeled by the great sociologist *Durkheim* as 'anomie' (*Durkheim* 1897/1997). According to *Durkheim* and the criminologists who have elaborated upon his theory, in an anomic environment, comparatively high levels of crime might



be expected. Countries which reputedly have high levels of corruption, as might be deducted from the Transparency Corruption Index, might be in the process of experiencing such rapid and radical changes. 'Likewise any sudden political or economic shift – such as into free-markets, democratic systems – may result in a contemporary state of heightened corruption and instability. The corruption may not be to blame for this chaos, but in fact may be reflective of it' (Beare 1997b: 163). An alternative reading of the influence of globalization on corruption is that it has increased the sensitivity for corruption. Based on the review of the publications and policy statements of the leading anti-corruption crusaders – namely the OECD, the IMF and the World Bank – *Williams and Beare* (1999) claim that the key change that has occurred over the past few years is not the growth of overall levels of corruption or the severity of its effects on domestic economic growth, but rather, the reframing of corruption as a source of economic risk and uncertainty that must necessarily be problematized according to the objectives and interests of the global economy.

It will be discussed below how the anomie can be found on the meso- and micro-levels within organizations, contributing to causes of corruption. However, first the relations between nation states and multinational corporations will be discussed as relevant to the concept understanding of corruption.

### 3.1.2 Corporations and states

Nation states are responsible for exercising control of corporations by regulating business and enforcing the regulations by actively inspecting compliance and when necessary, sanctioning non-compliance. Corporate crime is state-facilitated when this social control is lacking; when government regulatory agencies fail to restrain deviant business activities. This failure might be due to negligence, but it might also be an intentional strategy to attract foreign corporations. As mentioned above, corporate crime might also be initiated by the state. State-initiated corporate crime occurs when corporations, employed by the government, engage in organizational crime at the direction, or with tacit approval of the government.

Corruption can be a causal factor or a result of this nexus of state-corporate relations leading to deviant behaviour. The concept of state-corporate crime reflects the fulfilment of mutually agreed objectives of a public agency and a private entity achieved through cooperative illegal activity (Friedrichs 2007: 147). The study of state-corporate crime rests on the premise that on the one hand, in order to operate, the modern corporation requires a particular legal, economic and political infrastructure which is provided by governments; while on the other hand, governments in capitalist states depend on corporations to supply goods and services, provide an economic base and support government policies (Harper/Israel 1999). 'A trawl of literature (largely non-criminological) reveals a great many cases where

corporations and states have colluded in criminal enterprise for mutual benefit' (P. Green/Ward 2004: 29)

Corruption might be used as a lubricant, to create situations of dependency of governmental agencies or officials, making them more willing to serve corporate interests. This might especially be the case when a large multinational corporation is dealing with a weak government of a developing country. The desire for development through foreign investment often results in developing countries ending up dependent on investment by foreign corporations. This dependence might lead a government to sacrifice the environment and the human rights of its population to economic development. This dependence will increase in situations of armed conflict: then the revenues of foreign investment are needed to keep the war effort going. Dependency on foreign investment is also strong in countries with a large financial debt, as is the case in almost all developing countries. According to *Barnhizer*, 'the debt service obligation almost compels governments to look the other way when foreign and domestic investors offer some hope of increasing economic development and hard currency earnings from foreign trade' (Barnhizer 2001: 146-147).

Furthermore, strong dependence arises in large projects in which the government of a developing country is doing business directly with a large corporation: such as the building of a gas-pipe by the military *Junta* in Burma and the US-based corporation Unocal (Marshman 2003) and the Ok Tedi mining project and Australia's largest mining corporation Broken Hill Pty in Papua New Guinea (Harper/Israel 1999). In these cases, governments might even be willing to change the law so that the operations of this specific corporation is not restricted by regulation that would be violated, while the actions of its civilians directed against the corporation might be criminalized, as happened in the Ok Tedi case (Harper/Israel 1999).

Again, bribing might further increase dependencies. Shell has admitted that their way of doing business stimulated the corruption in Nigeria.<sup>6</sup> Also, while being used by corporations as a means to facilitate smooth business, profiting from these kickbacks might become the prime motivation for the business at the receiving end. In the Angolagate scandal it was uncovered that, via complicated schemes, French officials provided the MPLA government with arms that were to be used in its civil war with the rebels of UNITA. Apparently, these arms were not of very high standard. Sometimes the arms were just delivered solely for the commission and were directly put into a tank graveyard because the tanks could not function any more (Shaxson 2007).

The privileged positions of corporations with exclusive contracts or joint ventures with state-organs might also lead to strong personal relationships between corporate executives and politicians or public officials. These per-

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6 Shell (2003): People and The Environment report.

sonal relationships may further facilitate corruption. Allegedly, Liberian president Charles Taylor and Gus Kouwenhoven, director of Liberia's biggest logging companies OTC and RTC had such a relationship. 'Taylor and Mr. Gus were close friends', told the former management-assistant of OTC to a reporter of the Dutch newspaper *Trouw*, 'they often stayed together here on the complex and played volleyball or went fishing'. The reporter also describes how these logging companies paid large kickbacks to Taylor and his accomplices to obtain logging concessions.<sup>7</sup> Often, these personal relationships go hand in hand with corruption. The desire to generate foreign exchange at an institutional level coincides with the desire of individual political and corporate elites to gain personal profit.

In general, a high level of corruption may facilitate harmful business conduct, such as human rights violations and environmental pollution (International Council on Human Rights Policy 2009). Due to this causality, *Bantekas* proposes to qualify corruption as a crime against humanity in these situations (Bantekas 2006). The countries in which human rights abuses are frequently committed also score highly on the Corruption Perception Index of Transparency International (2008).

Corporations will be able to pay off any unfavourable governmental reaction to their harmful business activities. They may also be able to let governmental forces do the dirty work deemed necessary to protect corporate interests. For example, in Nigeria, a representative of the oil company Chevron was allegedly seen handing money to governmental soldiers, after having shot and killed protesters who had occupied one of Chevron's oil platforms (P. Green/Ward 2004: 38-39).

Not surprisingly, corporate involvement in human rights violations occurs in countries with dictatorial political systems. In such a system there is no democratic control governing the deals that the regime is making with corporations and the ways in which the government facilitates corporate interest and the destination of the revenues of such cooperation. Controversially, but interestingly, *Le Billon* also points to possible positive effects of corruption in situations of armed conflict: 'buying-off' belligerents can facilitate a transition to peace (Le Billon 2003; 2008).

The preceding section might create the impression that developing countries are particularly prone to corruption. However, the public governance structures of developed industrial societies might also create vulnerabilities for corruption. An example closer to home (at least the home of one of the authors) is the so-called *Poldermodel* that is seen as typical for public governance in The Netherlands, and especially in Dutch governmental policies regarding business. It has an historical meaning and refers to the crucial cooperation of the inhabitants of the Netherlands ('the low countries') to im-

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7 Arjen van der Ziel, 'Tropisch hout met bloed eraan' (Tropical wood stained with blood). *Trouw*. 3 september 2003.

polder' their land and maintain dikes, in order to keep the water out, otherwise all would drown. This must have shaped Dutch civil society into resolution by negotiation and settlement rather than conflict. In the 1990s this Dutch form of public governance was labelled the *Poldermodel* (Delsen 2000). It represented the organized cooperation between the Dutch government, employers and trade unions, aimed at reaching agreements rather than conflict (Léonard 2005). The model gained official status by the 1992 report of the Dutch Social Economic Council (*The Economy of Convergence and Consultation*) (Sociaal Economische Raad 1992).

For years this model of public governance was praised, even by the former president of the United States, Bill Clinton. According to Dutch criminologists, this famous *Poldermodel* also has its less desirable side-effects (Van de Bunt/Huisman 2007). The result is that Dutch governmental bodies are dependent in many ways on the commitment of corporations to realise their goals. A criminogenic side-effect is an obscure web of shared interests and secret understandings that can be characterized as 'collusion'. The small number of cases of corruption by public authorities in the Netherlands (Huberts/Nelen 2005) may well be related to widespread collusion: it is not even necessary to bribe enforcers and other public authorities in the Netherlands because they are already perfectly willing to keep in mind the interests and views of corporations. The concept was also used as an explanation for the malpractice in the construction industry that led to a parliamentary inquiry (Van den Heuvel 2003). When a whistle-blower reported on the large scale price-fixing of which public authorities were the main victims, it was hastily assumed this was due to bribing practices. However, although some examples of business trips to exotic locations and attending brothels did occur, these could not explain the widespread nature of overpricing governmental contracts. This was better explained by the close relations between local officials and construction companies leading to collusion (Van den Heuvel 2003).

This Dutch example reaffirms the suggestions presented above that more refined forms of corruption enable developed countries to escape the more blunt form of bribery found in developing countries (Campos/Giovanni 2006; Johnston 2005).

### 3.2 The organizational level

It was discussed above that the strong emphasis placed on the goal of 'success' typical for the culture of competition found in capitalist societies has spread through globalisation to the world economy; moreover, situations of anomie that can occur in societies and that anomic situations are also fuelled by globalisation. This culture of competition and situations of anomie are often related to high levels of white-collar crime, such as corruption. A macro approach, however, cannot fully explain why some corporations or corporate

agents are willing to bribe foreign officials to get certain contracts, or domestic officials to get certain permits, or to escape sanctioning, while others do not. The macro perspective does not explain differences in compliance between organizations and their agents subjected to the same macro-variables. Therefore, it is necessary to look at organizational characteristics that may also influence the behaviour of organizational members. 'Corporate crime is *organizational* crime, and explaining it requires an *organizational* level of analysis' (Kramer 1982).

### 3.2.1 Strain

On the meso-level of organisations, the culture of competition can be related to organizational crime as a result of the strain that is felt between being able to achieve goals and having the means to do so. The strain-theory was originally formulated by *Merton* as a general theory of crime (Merton 1957). In his analysis of the American society in the nineteen thirties, *Merton* argued that the goal of economic success was valid for all members of society – the 'American Dream' – while the cultural prescribed means for achieving these goals are not evenly distributed among all members and social groups in society. This could bring groups with less access to legitimate means for acquiring wealth to search for alternative, possibly illegitimate means, dubbed by *Merton* as 'innovation'. *Cloward and Ohlin* added to this that also the availability of illegitimate means may not be evenly distributed among society (Cloward/Ohlin 1960). Adolescents growing up in neighbourhoods with extensive informal economies might have easier access to illegitimate business opportunities than youngsters growing up in neighbourhoods without these criminogenic opportunity structures. While having been developed for the explanation of crime in the lower classes of society, the strain theory proved very popular in the explanation of white-collar crime, especially combined with the notion of anomie (Cohen 1995; Passas 1990). Several studies have focused on the relevance of strain-situations that can exist within organizations for understanding white-collar crime. Specifically on the use of corruption by firms in Russia, *Venard* (2009) found a positive relationship between the intensity of competition and the level of corruption.

Especially when opportunities for making profit are threatened and the continuation of a corporation is at stake, corporate agents might transfer to illegitimate means to make profit, such as offering bribes to get the necessary contracts. In their classical and extensive study on corporate crime in American businesses, *Clinard and Yeager* found that 'firms in depressed industries as well as relatively poorly performing firms in all industries tend to violate the law to a greater extent than those not in this situation' (1980:129). However, the application of the strain theory is not restricted to marginal corporations. First, since all types of organizations are goal-seeking entities, innovative means to achieve goals – besides profit – can be used when conventional

means are blocked. Corruption as an innovative means to reach organizational goals – which can be closely connected to personal goals – can therefore also be found in non-profit organizations, such as political parties and NGO's. Second, it is rather the level of ambition with which goals are set and the perception that goal attainment is threatened that creates a feeling of strain than that it is an objectively desperate situation. Even in quite profitable and economically healthy firms, strain can be a motive for rule-breaking when ambitions are set so high that they can only be met by using 'innovative' ways. By consolidating the notions of reference groups and relative deprivation, the strain theory could predict rule breaking in any organization, at every level. In his study on retired managers of large corporations, *Clinard* (1983) found that especially middle-managers experienced strain. Top management sets the goals and the responsibility for achieving these goals is then passed in the organizational hierarchy to middle managers. Ambitions at the top may create so much internal pressure that the perceived only possible reaction of those in the middle is to break ethical and legal rules.

Although lower ranking personnel may be forced to do the dirty work, such as the actual bribing, they may not be without personal benefit for finding innovative courses of action. Indeed, the attainment of personal goals of success might be connected to and dependent upon the prosperity of the organisation. Personal gain may take the form of career advancement, having stock and receiving personal bonuses. The alignment of personal interests and organizational goals is not limited to corporations but can be seen in political organizations as well.

The breach of legal norms can at the same time constitute behaviour which conforms to the standards and expectations prevalent in the organization. 'Such standards may emerge out of efforts to deal with problematic situations and structurally generated strains' (Passas 1990:165). This means that informal, standard, operating procedures come into being that are clearly not in accordance with the law, but that are viewed and rationalized as acceptable and non-criminal, for instance because there are no real victims. This was exactly the landmark-rationalisation given by a respondent in Geis' case-study of price-fixing in the heavy electrical equipment industry in the nineteen fifties: 'Illegal? May be, but not criminal' (Geis 2006). The same rationalization could apply to corrupt standard procedures, as one of the authors was told in an interview with an executive of the former Dutch aviation industry Fokker: 'What do you think? If we do not first offer a Fokker Friendship to the president, we won't be able to do business in Africa' (Huisman 1995). Other rationalization in situations in which corruption is endemic is that one is merely conforming to expectations and that everybody is doing it. Indeed, in systemic corrupt societies, 'clientelism' and patronage are the norm and not taking part might be seen as deviant behaviour.

These rationalizations lead to a myth of normality surrounding nothing less than deviant behaviour which has become deeply entrenched in the organiza-

tional culture and which is passed on to new organizational members. Although *Shover and Hochstetler* (2002) warn us of a 'monolithic bias' of using organizational culture as an explanation for organizational crime and stress that culture is no 'straightjacket for action', they do point at the evidence that the stance towards ethical conduct and compliance with the law taken by organizational leadership may be a critical deterrent of organizational culture.

The choice for innovative strategies for goal attainment is even easier when the lines between legitimate and illegitimate behaviour are blurred due to regulatory obscurity, as might be the case in the regulation of corruption. The above analysis shows that the relation between strain and anomie is double-sided and mutually reinforcing: in anomic situations it is easier to defer to illegitimate means to achieve otherwise strained goals and strain can contribute to the blurring of norms of acceptable behaviour, creating deviant subcultures. When it is not clear which rules are applicable, or when such behaviour is condoned in the specific subculture, offering or taking bribes will come to be seen as an acceptable way of achieving organizational or personal goals. By so doing, this informal norm will become more deeply rooted.

### 3.2.2 Loosely coupled structures

Besides organizational goals and the pressure put on their attainment, another organizational feature that has been related to rule-breaking within the organization is the organizational structure. While the long hierarchical lines of a classic bureaucratic organization might lead to a diffusion of information and internal control, facilitating the occurrence of misconduct, deviant behaviour has recently been related to the contemporary trend of 'loose-coupling' in organizations. Loose coupling is the answer to increasing uncertainty in the environment of organizations, partly due to the internationalization of markets, and creates the capacity to respond to changes in the environment – threats or opportunities – with greater flexibility. Loose coupling is a form of decentralization in which sub-units are partly detached from the parent organization and receive a greater amount of autonomy. Although a loosely coupled structure allows an organization to better adapt to change, it also has some dysfunctions which may become an impetus to disreputable and illegal behaviour (Tombs 1995). A highly divisional, loosely coupled system may lack internal control. Because of the autonomy of sub-units, illegal behaviour may not come to the attention of the parent's management. While this behaviour may be an unwanted side-effect, de-coupling may also be a deliberate strategy to isolate subunits that run a higher risk of being accused of disreputable or illegal behaviour, for example because it is operating in a corruption ridden market or country (Gobert/Punch 2003). *Uhlenbruck et al.* (2006) show that corporations that enter foreign markets in corrupt environments adapt to the risk of corruption by using equity modes of entry such as short term contracting and joint ventures.

A step further in detaching from liability and reputation risks, is outsourcing questionable activities. This can often be observed as a corporation's reaction to a scandal concerning one of its subsidiaries. For example, when the large multinational fruit corporation Chiquita had to agree to a plea-bargain after being accused of providing pay-off money to the AUC in Colombia – a paramilitary group that is on the US terrorist organizations list – it officially left Colombia. Instead, a new company and independent company was formed for the export of bananas, Banamex, which has as sole client Chiquita and used all the infrastructure formally owned by Chiquita (Windsor 2008).

### 3.3 The interactional level

Although the discussed theories follow the common assumption in organizational sciences that organizations could be studied as actors, this anthropomorphic approach seems to forget that in the end it is *people* who are offering or accepting bribes. Most authors in the field of white-collar crime stress that white-collar offenders are 'normal' people, meaning that their personality traits, demographic and socio-characteristics are more similar to law-abiding middle-class citizens than offenders of regular, street crime. 'it is generally agreed that personal psychology plays no significant role in the genesis of white-collar crime and that the white-collar criminals are indeed psychologically normal' (Coleman 1995). The scarce literature on the profile of white-collar offenders confirms this view (Weisburd/Waring 2001).

#### 3.3.1 Socialization of deviance

White-collar criminologists emphasize the conditioning effect of the organization on the individual's behaviour. Individuals who do not have a deviant self-image, become offenders through the pressures of the 'normalization' of deviance as discussed above. Organizational sociologists refer to the numbing effects of modern bureaucracies upon the moral sensibilities of their employees. *Drucker* labelled this as the 'Organization man', who is under pressure to conform to the image that individuality and personal ethical standards must be sacrificed for the sake of career. Processes of socialization can create a kind of 'moral numbness', in which unethical or illegal activities appear to be a normal part of daily routine.

According to *Cohen* (1995), organizational members who are subjected to the contradictions between behavioural norms in society and the norms being transferred in the organizational subculture, might suffer from psychological anomie. However, one might say that the processes of the socialization of deviance offer a way out from this state of alienation. *Passas* (1990: 166) even states that: 'In anomic situations, offenders are in a better position to neutral-



ise and rationalize their acts, and at the same time preserve their self-esteem'. Organizational subcultures provide their member with appropriate justifications. According to *Coleman*, police subcultures, for instance, often distinguish between 'clean' and 'dirty' pay-off money and hold that there is nothing unethical about accepting the former (*Coleman* 1987).

So, at the interactional level we can see that white-collar deviancy, such as corruption, is normal learned behaviour. We should thank Sutherland not only for introducing the concept of white-collar crime, but also for developing a theory for understanding social learning of deviancy. According to his differential association theory, criminal behaviour is learned like any other behaviour and the criminal must learn both the techniques of crime and motivations favourable to criminal behaviour. Through differential association and techniques, rationalisations and attitudes are passed on.

'The hypothesis of differential association is that criminal behaviour is learned in association with those that define such behaviour favourably and in isolation from those who define it unfavourably, and that a person in an appropriate situation engages in such behaviour if, and only if, the weight of the favourable definitions exceeds the weight of unfavourable definitions' (Sutherland 1949: 234).

### 3.3.2 Neutralization techniques

While there are several forms of corruption, and it could be assumed that their techniques are not hard to grasp, it might be more interesting to look at the neutralization of corruption. As white-collar offenders are generally strongly committed to the central normative structure, every offender has to cross a moral threshold to be able to violate laws or ethical norms. To maintain an identity of being a respectable citizen, a white-collar offender has to adjust the 'normative lens' through which society would view his behaviour. In their classic study, *Sykes and Matza* showed that delinquents adjust this normative lens by using techniques of neutralization that deny the seriousness of the offence and the blameworthiness of the offender (*Sykes/Matza* 1957). As *Coleman* pointed out so clearly, neutralisation techniques are not only *post hoc* rationalizations of white collar crime, but can also precede rule breaking and thereby morally facilitate non-compliance. 'A rationalization is not an after-the-fact excuse that someone invents to justify his or her behaviour but an integral part of the actor's motivation for the act' (*Coleman* 1987: 411) This would lead to the assumption that having neutralisation techniques at one's disposal is a crucial condition for getting involved in corruption and being capable of offering or accepting a bribe. Besides the obvious opportunities and limited control mechanisms, these neutralisation techniques could be an important object of study when doing research on corruption.

In a study on the accounts which convicted white collar offenders used to justify or excuse their behaviour, *Benson* identified three general patterns in accounting strategies: accounts oriented toward the offence, accounts toward

the offender and accounts toward the denouncer (Benson 1985: 1998). Accounts that focus on the offence either emphasize the normality and general acceptability of the behaviour ('business as usual') or portray the offence as an aberration, not representative of typical behaviour patterns. When the perpetrator himself is the subject of the account, he will try to show that no matter how the offence is eventually characterized, it is not indicative of his true character. Perpetrators must show that they are ordinary, reasonable individuals to be seen as separate from their offence and emphasize the crime's unique character. Accounts that aim at the denouncer condemn the condemners. For example, the offender might claim that prosecutors are motivated by personal interest rather than a desire to defend social or legal values, and that they were singled out for political reasons that had nothing to do with the harmfulness of their behaviour.

Both *Benson* and *Coleman* constructed a typology of the techniques of neutralization used by white-collar criminals. *Anand, Ashforth, and Joshi* (2005) applied these to corruption in organizations.

One of the most common techniques is the denial of harm. According to *Coleman*, the convicted white collar offender frequently claims that their actions did not harm anyone, and that they therefore did not do anything wrong. This technique is rather obvious in neutralizing corruption. Although the relationship of the stakeholders in a corruption scheme is often portrayed as a triangular affair – the one that is bribing, the one that is being bribed and the victim – the victim is often more difficult to detect. Of course, as discussed in section 2.3, victimization can always be constructed: competitors who did not get the contract, refugees who receive less aid because of the amount of kick-backs taken by local officials, and the integrity of the political system in general. However, for both sides benefiting from corruption it will often be easy to maintain that no harm has been done.

A second neutralisation technique used by white collar offenders is to claim that the laws they are violating are unnecessary or even unjust. Offenders using this rationalization find support in the influential neo-liberal Chicago school of economics which argues that market systems can only operate at a maximum efficiency when there are no artificial barriers such as government regulation (Friedman 1962; Posner 1976). 'The state has no role except to get out of the way' (Snider 2000: 182). In the light of corruption this argument is interesting, because it is due to the pressure of international business that international organizations such as the World Bank, the IMF, the OECD and the European Union are forcing nation states to prohibit and prevent corruption, trying to create a 'level-playing-field' for multinational corporations. Corporations wish to be able to operate as inexpensively and rationally as possible throughout the world. Systems of graft and bribes are unpredictable, unreliable and costly (Williams/Beare 1999). Nevertheless, those who are struck by these regulations might say that they only promote international business at the expense of the local economy.

A third neutralisation is that the violation of regulation is necessary to achieve vital economic goals or just to survive. Both on the active and the passive side of corruption this neutralization can be identified. Those who offer bribes will stress that this – however undesirable – is necessary to be able to conduct business. Those who receive the bribes may say that the regular salary is not sufficient to survive and that the extra income is necessary to take care for the family.

A fourth technique of neutralization involves transfer of responsibility from the offender to a larger group. This will be especially useable when corruption is endemic. Both those who are offering and who are accepting bribes might claim that ‘everybody’s doing it’. The accompanying rationalization is that it is unfair to condemn one violator unless all other violators are condemned as well.

The fifth neutralization method is that a person is not responsible for his behaviour – which therefore cannot be qualified as criminal – when merely conforming to expectations of others. This refers to the escape of middle-management to situations of strain: through processes of socialization, using bribes might be seen as an acceptable way of meeting the targets set by higher management. Moreover, when clientelism and patronage are endemic, paying or taking bribes *is* expected.

Finally, many occupational crimes are justified on the grounds that the offender deserves the money. This rationalization clearly only applies to the receiving end of corruption, but it might be a dominant neutralization for the more daily forms of kickbacks that are attached to a certain position in public office. A good example is the saying used by members of the All Peoples Congress administration of Sierra Leone, as recorded by *Thompson and Potter* (1997: 150), ‘Da sae wey den tie cow, nar dey e go eat grass’ meaning literally that ‘A cow will graze on land allotted to it for that purpose’.

#### 4. Methodological considerations

A final issue to discuss is the methodology to explore corruption as a crime phenomenon. It is debatable whether we should discuss a criminological methodology of the study of corruption. First, in the domain of criminology empirical research on corruption is very limited. Second, being a social science of which the boundary with other social sciences is blurred, research methodology would also be equally similar. Nevertheless, in criminological research, methodological strategies have been developed to overcome the handicaps connected to studying behaviour which people would neither see nor hear due to its illegal nature (Bijleveld/Nijboer 2003).

Basically, two types of data are used in criminological research to study crime (and its offenders, its causes and its consequences). The first type is data produced by law enforcement agencies, such as police reports, court

rulings etc. The second type consists of data directly gathered from offenders or victims of crime, mostly by victim surveys and self-reporting surveys.

Corruption is a consensual crime, of which reporting to the police benefits neither the corruptor nor the corruptee and the victims may be oblivious to their victimization. Most corruption cases remain hidden because both parties respect *the rule of silence*, because nobody in the environment reacts to the corruption or because their corruptive practices are not perceived to be corruption. Furthermore, corruption cases that occur in an organisational context are often settled in alternative ways, such as a disciplinary procedure.

Therefore, corruption is a crime phenomenon with a large 'dark figure'. This concept refers to the amount of crime that is not reported and therefore not visible in official registrations and files. Official data show only the tip of the iceberg. As a Founding Father of research into white-collar crime, *Sutherland* was aware of the problem that the files of the criminal court only represent a small part of corruption cases and that most cases were settled out of court or in a civil or a disciplinary procedure. To study the true amount of legal violation committed by the largest American companies, he collected both the criminal and civil court files together with databases of disciplinary agencies. Since only a small amount of cases are dealt with in the criminal courts the researcher must broaden their research domain to non-judicial enforcement organisations. A recent example is the research on corruption in the Dutch public administration, executed under order of the Ministry of Justice of The Netherlands (Huberts/Nelen 2005). The aim was to gather information on the extent, nature and settlement of corruption cases in that country. To study the extent of corruption, the researchers started from the idea that the corruption files at the level of criminal justice are known. They completed the information by sending a questionnaire to the public administrations asking to report on the files of internal settlement of corruption cases. The methodology to study the nature of corruption was particularly case-study research. The settlement question was explored by a triangulation of conducting interviews and the analysis of files of the public prosecutor and the public administration.

Every crime, even murder, has its dark figure. But because of its diffuse character and its apparent victimless nature, the portion below water surface of the iceberg of corruption will be relatively large even if all law enforcement agencies are included. Victim surveys and self-reporting have been developed to overcome the dark-figure-problem in studying crime. However, the limited awareness of corruption victims of being victimized, and the ambiguous criminalization of many forms of corruption, limit the added value of these instruments in studying the prevalence and the nature of corruption.

In line with Transparency International some criminologists chose for perception study (Dormael 2010; Zang/Cao/Vaughn 2009). Instead of measuring the prevalence of corruption, social scientists developed a methodology to measure the people's perception of corruption (see, eg., Gardiner 1967;

Gibbons 1990; Heidenheimer 1989). These perception studies give an idea of the way people judge acts of politicians and civil servants. These types of study primarily shed light on people's trust in public authorities and processes of the criminalization of corruption. However, their contribution to criminological research questions on prevalence and causes of actual acts of corruption is negligible.

The dark figure of corruption cases makes a quantitative analysis based on official registration or victim surveys useless. Therefore, most corruption research in criminology is based on a qualitative methodology: interviewing, participant observation and case-study. For example, in his research on corporate crime in the pharmaceutical industry, *Braithwaite* interviewed management and employees of pharmaceutical companies to find out whether and how companies commit corruption (Braithwaite 1984). A lot of publications could be read as case-studies even if the methodology is not that rigid. We refer to the work of *Punch* on police corruption. His research on police corruption is based on interviews with police officers and arrested police officers, on informal talks, on the interaction with police officers during presentations, on visits to police stations etc. (Punch 2009)

The method of case study certainly has its merits. *Shover and Hochstetler* (2002) mention that 'the findings of case-studies can be used to generate hypothesis or to cast doubt on theory-based hypothesis'. Case-studies also enable the researcher to study the 'real thing', and getting a better understanding of the meaning of corruption in the social setting in which it is committed. However, they also point out the shortcomings of explaining organizational crime on the basis of case-studies. Usually the more serious cases concerning high-profile individuals or organizations in which they occurred are singled out, in the process becoming landmark-narratives of scholarship on corruption. As *Shover and Hochstetler* remark, findings gained from the most egregious incidents and offenders may have limited application to the more typical corruption, if such a thing exists. For instance, besides the obvious example of mafia-ridden countries like Italy, the Dutch perception of corruption was for a long time shaped by the exceptional case of the bribing scandal of Prince Bernhard who at the time of the scandal was the husband of the reigning monarch, Queen Juliana of The Netherlands. The prince was embroiled in scandal with the American arms manufacturer Lockheed, in the process of the procurement of new fighter jets for the Dutch Air Force in the 1970s. The same could be said about the more recent Agusta-scandal in which two Belgian ministers and the Belgian secretary-general of NATO were found guilty of being bribed in the acquisition of attack-helicopters (Cools 2009).

A discrepancy seems to exist between the study of corrupt behaviour of civil servants or politicians on the one hand and the scientific indifference vis à vis the corruptive practices of private companies and of civilians. Most research is directed to the passive corruption side while the active corruptor at-

tracts less attention. *Shichor and Geis* who carried out a survey on transnational bribery confirm that business men escape the disapproval: people think that accepting a bribe is worse than offering a bribe (Shichor/Geis 2007). One of the explanations for this underestimation is that criminologists for a long time have shown restraint in entering private companies. Indeed, 'getting a foot in the door' is widely recognized as the greatest methodological challenge of researching corporate crime (Verhage 2009). Once inside, a second challenge is getting past the socially desirable answers of the public relations departments and getting managers to talk about the sensitive issues of corruption. Exceptions in the field of corruption are *Venard* (2009), who interviewed a mere 552 managers of Russian firms on the issue of environmental pressures and the decision to adopt corruption, *Van de Bunt* (1993) who got corporate security officers in The Netherlands talking about corruption in the private sector and the already mentioned *Braithwaite* who linked corruption to the pharmaceutical industry. One of the recommendations for criminological research is to intensify the study of the responsibility of private companies in corruption cases. The annual Global Corruption Report 2009 of Transparency International may stimulate research on corruption in the private sector.

## 5. Conclusion

This chapter started with the observation that corruption has seldom been the topic of criminological research. Nevertheless, corruption is a crime. However, as shown by the several domains of study in which corruption is of interest, corruption can be both causal factor and side-effect of categories of crime, such as organized crime, corporate crime and state crime.

Even if these criminological domains are fertile ground for corruption research it has been a rather limited list so far. Generally, corruption is not studied *per se* but comes into the picture as a facilitator for organized crime or a crime phenomenon typical for third world countries. One of the explanations for this scarce attention is the lack of public indignation. *Levi* gives the example of the corruption practices of the International Olympic Committee (Levi 2009: 58). The media who gave some publicity to the case had to prevent being blamed for publicity-seeking incompetence. Illustrating this point, *Box* said with reference to his research of police corruption: 'Corruption penetrates the public consciousness rarely, like a missed heart-beat in an otherwise perfectly functioning body' (Box 1983: 93).

Due to the natural evolution of the discipline itself, but also because of the social context, we predict an increase in criminological corruption research in the near future. First of all, the move to transnational crime research that discloses the sometimes deviant connection between the western market and local and national governments of third world countries or countries in

transition, shows the urgency of corruption research. Secondly, the anti-corruption measures that have been taken at the international and state level and the positive pressure that goes out from non-governmental organisations such as Transparency International have a stimulating effect. Thirdly, actors in the private sector also start to take initiatives that disturb fair competition. In the *Ethical Corporation* magazine corruption is perceived as ‘the’ corporate crime of the century (Roner 2008). The criminal investigations on the corrupt practices of Siemens, Statoil and BAE Systems do not pass unnoticed. The resistance with which organisational criminologists are confronted when doing research concerning injurious corporate crime is apparently disappearing.

Finally, we would like to warn against adopting a narrow perspective on deviant relations between public authorities and the private sector. It is not only corruption that makes the position of private companies more comfortable. The relation between the political level and the private sector has been changing from a state-regulated market into a policy of co-regulation and deregulation. We wonder to what extent corruption is still a necessity for the protection of companies’ interests and if the danger is not moving to legal relations between the public authorities and the private sector; in particular, lobbying, networking and the risk of the revolving doors. The European commission has recently tried to regulate the market of lobbyists who work at the European level in Brussels but had to reduce its plans from an obligatory system of transparency into a voluntary system of openness to the public.<sup>8</sup>

This chapter has raised the question whether the definition of corruption should go beyond legal boundaries and include other socially injurious forms of entanglement of interests. A problem of so doing is the inevitable netwidening and inflation of the term, further blurring the boundaries between corrupt and non-corrupt acts. However, not doing so limits the scope of the criminology of corruption to the usual suspects: the more visible and bare forms of bribing. Or, as *McBarnett* has put so eloquently: ‘is corruption a ‘crime for the crooks’ or are some activities ‘whiter than white collar crime?’’ (Mc Barnett 1991: 3) In the case of the latter, *Passas* (1998) qualifies corruption as ‘crime without law violation’.

The application of criminological theories results in a plausible hypothesis on causations of corruption. This hypothesis illustrates the interplay of motivation, opportunity and control at the individual, organizational and environmental levels. This dynamic and mutually reinforcing relationship can have a spiraling down effect, amplifying deviance and increasing the likelihood of corruption (Den Nieuwenboer/Kaptein 2008).

However, there are two possible flaws in our analysis. First, the many forms of corruption might challenge the assumption used in this chapter that it is often committed in a white-collar crime context, and second, this as-

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8 See for the list of lobbyists: <https://webgate.ec.europa.eu/transparency/reg/in/welcome.do>

sumption and also the hypothesis based on it need to be empirically tested, therefore. However, there is hardly any criminological research that explicitly focuses on corruption. Nonetheless, in corporate crime research, some methodology has been developed for studying ambiguous and seemingly victimless crimes committed in organizational context.

Seeing corruption as forms of organized, occupational or organizational crime would also suggest that the strategies developed and derived from cautions for combating these forms of crime, would also apply to fighting corruption. It is noticeable that international and non-governmental organizations involved in the fight against corruption, often stress the importance of criminalization and the application of criminal law enforcement. However, it is questionable if this plea serves as a moral message or as an assumption of the instrumentality of criminal law. Looking at the responses to organized and organizational crime, it is generally assumed that the deterrent effect of criminal law – or any legal sanctions for that matter – is rather limited. While in theory, total control would deter organizational crime; in practice the deterrence strategy suffers from too many flaws to be effective. On the basis of a meta-analysis of studies of the effectiveness of deterrence of corporate crime, *Simpson* concludes:

‘The evidence is far from conclusive regarding whether corporate violators should be criminally prosecuted or whether other justice systems (civil or administrative) produce higher levels of corporate compliance or if sanctions should be directed toward the company, responsible managers, or both (...) ‘Get tough on corporate crime’ recommendations have relatively little empirical merit at this point of time, especially without consideration and research on how legal sanctions operate in conjunction with other social control mechanisms’ (Simpson 2006: 69, 77).

And also the recent studies and policy document on combating organized crime show a realistic view on the limitations of the effectiveness of the application criminal law: ‘You can put them in jail, but you cannot put them out of business’ (Huisman/Nelen 2007). Because of these limitations, contemporary criminal policy is more focused on taking away the opportunities for committing criminal offences. Crucial in such situational crime prevention, is blocking the access of offenders to potential target or victims. However, with many white-collar crimes, specialized access to corruptees is connected to occupational roles and blocking this might not be feasible in the organizational or business setting (Benson/Madensen 2007).